IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CONNECT AMERICA HOLDINGS, LLC, CONNECTAMERICA.COM, LLC, and KENNETH GROSS,

CIVIL ACTION

Plaintiffs,

NO. 14-4784-TJS

v.

.

ARCH INSURANCE COMPANY,

Defendant.

SECOND DECLARATION OF RALPH C. LOEB, ESQ.

I, Ralph C. Loeb, hereby declare as follows:

- 1. I am an attorney at law and a senior counsel of the law firm Krane & Smith, APC, 16255 Ventura Boulevard, Suite 600, Encino, California, 91436. I am admitted to the State Bar of California, and have been since 1986. I was counsel of record for Life Alert Emergency Response, Inc. ("Life Alert") in various lawsuits previously filed against ConnectAmerica.com, LLC ("Connect America") and/or Kenneth Gross. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, could and would competently do so.
- 2. I am submitting this declaration mindful not to disclose any attorney-client privileged communications with Life Alert or information protected by the attorney work product doctrine.
- 3. This is the second declaration that I am submitting in the above-captioned matter. The first declaration dated April 29, 2015 is incorporated herein by reference and any capitalized term in this declaration shall have the meaning set forth in the first declaration, unless specifically defined below.

THE 2009 CONNECT AMERICA ACTION'S FALSE ADVERTISING CLAIM

- 4. In its 2013 Connect America/LifeWatch Complaint, Life Alert included a fifth cause of action against Connect America and Mr. Gross for "False Advertising Under 15 U.S.C. § 1125(a)." This "False Advertising" claim against Connect America and Mr. Gross in the 2013 Connect America/LifeWatch Complaint solely based on the core message in Connect America's advertising that "it has been providing emergency response services for more than thirty-five years," even though "Connect America was formed in or about 2004 and has been in business for approximately ten years." (See 2013 Connect America/LifeWatch Complaint, ¶s 137-138.)
- Life Alert did not assert a separate cause of action against Connect America or
 Mr. Gross for "False Advertising" in Life Alert's 2008 Connect America Complaint or 2009
 Connect America Complaint.
- 6. In its 2009 Connect America Complaint, Life Alert asserted a second cause of action against Connect America and Mr. Gross for "Violation of Lanham Act, 15 U.S.C. § 1125(a)(1)(A) and (B)," and within that cause of action, alleged that the acts of Connect America and Mr. Gross "as alleged above, as well as others, also constitute false advertising in violation of the Lanham Act, as amended, 15 U.S.C. § 1125(a)(1)(B)."
- 7. Life Alert's "false advertising" allegations in its second cause of action in the 2009 Connect America Complaint did not explicitly relate to Connect America's advertising as to how long it has been providing emergency response services.

THE2013 CONNECT AMERICA SETTLEMENT AND THE 2013 CONNECT AMERICA ESCROW AGREEMENT MUST BE READ TOGETHER

8.

CONFIDENTIAL

CONFIDENTIAL

The terms of the 2013 Connect America Settlement

Documents contain strict confidentiality provisions and therefore I hereby designate Paragraphs
8-10 of this Declaration as "Confidential" pursuant to the Protective Order in this action.

9.

CONFIDENTIAL

10.

CONFIDENTIAL

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 15, 2015 in Encino, California.

Dated: May 15, 2015

Ralph C. Loeb, Esq.